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The Impact of Sequestration on Unemployment Insurance Benefits: Frequently Asked Questions

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Summary

"Sequestration" refers to a process of automatic, largely across-the-board spending reductions under which budgetary resources are permanently canceled to enforce certain budget policy goals. Most recently, sequestration was triggered by the Budget Control Act of 2011 (BCA; P.L. 112-25) and first implemented on March 1, 2013 (delayed by P.L. 112-240).

Some, but not all, types of unemployment insurance (UI) benefits are subject to reductions under the BCA sequester. Regular Unemployment Compensation (UC), Unemployment Compensation for Ex-Servicemembers (UCX), and Unemployment Compensation for Federal Employees (UCFE) benefits are specifically exempt from the sequester reductions. UI payments from the Extended Benefit (EB) and now-expired Emergency Unemployment Compensation (EUC08) programs, however, are subject to the sequester reductions. States administer all types of UI benefits. Therefore, states are responsible for carrying out the sequester reduction in UI benefit payments. The amount and method by which a UI recipient's benefit is reduced varies by state and the date the reduction begins.

This report provides brief answers to some frequently asked questions regarding sequestration and unemployment insurance benefits.

Additional information on UI programs and benefits is available in CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs; and CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*, by Katelin P. Isaacs and Julie M. Whittaker.

Additional information on modifications to UI programs and benefits as a result of recent changes to state laws is available in CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

More general information on the sequester is available in CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

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What Is the Sequester?

"Sequestration" is a process of automatic, largely across-the-board spending reductions under which budgetary resources are permanently canceled to enforce certain budget policy goals.[1] It was first authorized by the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Title II of P.L. 99-177, commonly known as the Gramm-Rudman-Hollings Act).

Currently, sequestration is being used as an enforcement tool under the Budget Control Act of 2011 (BCA; P.L. 112-25). Because Congress failed to act by January 15, 2012, to reduce the deficit by at least $1.2 trillion, a series of automatic spending reductions has been triggered. The reductions take the form of the sequestration of mandatory spending in each of FY2013-FY2021, a one-year sequestration of discretionary spending for FY2013, and lower discretionary spending limits for each of FY2014-FY2021.

Certain federal programs are exempt from sequestration, and special rules govern the effects of sequestration on other programs. Most of these provisions are found in Sections 255 and 256 of BBEDCA, as amended.

Which Types of Unemployment Insurance Benefits Are Affected by the Sequester?

Sequestration, required by the BCA (P.L. 112-25) and first implemented on March 1, 2013 (delayed by P.L. 112-240), affects some but not all types of unemployment insurance (UI) benefits. Benefits from the regular Unemployment Compensation (UC), Unemployment Compensation for Ex-Servicemembers (UCX), and Unemployment Compensation for Federal Employees (UCFE) programs are exempt and not subject to the sequester reductions.[2] Extended Benefits (EB) and the temporary, now-expired Emergency Unemployment Compensation (EUC08)—as well as most forms of UI administrative funding—are not exempt from the sequester, however, and, therefore, are subject to the sequester reductions.

The U.S. Department of Labor (DOL) has released details on how the UI BCA sequester reductions should be implemented.[3] This DOL guidance outlines how states, which administer UI benefits, must reduce all EB and EUC08 benefits, when that program was authorized.

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[1] For more information on the budget sequestration, see CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

[2] Section 256(h) of P.L. 99-177.

[3] For FY2013, see U.S. Department of Labor (DOL), Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) 13-13*, March 8, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf. For FY2014, see DOL, Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) 30-13*, September 27, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_30_13_Acc.pdf. For FY2015, see DOL, Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) 2-15*, October 15, 2014, http://wdr.doleta.gov/directives/attach/UIPL/ UIPL-2-15_Acc.pdf.

What Are the Consequences of the Sequester for Nonexempt UI Benefits in FY2015?

For FY2015, the sequester order requires a 7.3% reduction in all nonexempt nondefense mandatory expenditures, including EB benefits.[4] Since authorization for EUC08 benefits expired at the end of 2013, EB benefits are the only type of UI benefit subject to the FY2015 sequester. As of the week of January 18, 2015, however, no EB benefits have been available in any state in FY2015 thus far.[5]

How Must States Implement the Sequester of UI Benefits in FY2015?

The U.S. DOL has announced that any EB benefit payments in FY2015 must be reduced by 7.3% for weeks of unemployment beginning on October 4, 2014, through September 26, 2015.[6] This reduction only applies to the federal share of EB benefits, which is 50% (states finance the other 50% of EB benefits).

States generally would be responsible for paying the amount of the EB benefit subject to sequester (i.e., making up the 7.3% reduction in FY2015). However, under federal law, a state may choose to reduce EB benefits by the amount sequestered if the state changes its state unemployment law and the reduction is equivalent to the sequester reduction.

What Were the Consequences of the Sequester for Nonexempt UI Benefits in FY2014?

The Office of Management and Budget's (OMB's) sequester order for FY2014 required a 7.2% reduction in all nonexempt nondefense mandatory expenditures, including EB and EUC08 benefits.[7]

Authorization for the EUC08 program ended the week ending on or before January 1, 2014 (i.e., December 28, 2013; or December 29, 2013, in New York State). EB benefits were not available in any state in FY2014.[8]

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[4] Office of Management and Budget (OMB), *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 201*5, Washington, DC, March 10, 2014, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/sequestration_preview_report_march2014.pdf.

[5] See DOL, Employment and Training Administration, Extended Benefit Trigger Notice, 2015-1, http://www.workforcesecurity.doleta.gov/unemploy/trigger/2015/trig_011815.html.

[6] DOL, Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) 2-15*, October 15, 2014, http://wdr.doleta.gov/directives/attach/UIPL/ UIPL-2-15_Acc.pdf.

[7] OMB, *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2014* and *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2014* (corrected version), Washington, DC, May 20, 2013, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy14_preview_and_joint_committee_reductions_reports_05202013.pdf.

[8] See DOL, *Employment and Training Administration*, *Extended Benefit Trigger* Notices (various), http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp.

How Did States Implement the Sequester of UI Benefits in FY2014?

The U.S. DOL announced that EUC08 benefit payments were to be reduced by 7.2% for benefits paid for weeks of unemployment beginning on October 6, 2013, and ending December 28, 2013.[9] According to its guidance, the U.S. DOL worked with states individually to assist them in administering the FY2014 sequester of EUC08:

> Due to the extraordinary programming challenges states experienced during sequestration implementation for FY 2013, and the additional challenges presented by the further changes necessary for sequestration implementation for FY 2014, the Department has reached out to states with various options that may be used in order to achieve the required FY 2014 sequestration savings. Letters have been sent to each state approving the implementation strategy agreed upon by the Department and the states in advance of further specific guidance in this UIPL [Unemployment Insurance Program Letter.][10]

Although no EB benefits were paid in FY2014, any EB benefits would have been reduced by 7.2% for any benefits paid for weeks of unemployment beginning on October 6, 2013, and ending September 27, 2014.[11] Only the federal share of EB benefit costs were subject to the sequester. The temporary 100% federal financing of EB benefits ended on December 31, 2013. After December 31, 2013, the federal share of EB benefit costs returned to 50% (and states finance 50% of EB benefits). States generally would have been responsible for paying the amount of the EB benefit subject to sequester (i.e., making up the 7.2% reduction). However, under federal law, a state may reduce EB benefits by the amount sequestered if the state changes its state unemployment law and the reduction is equivalent to the sequester reduction.

What Were the Consequences of the Sequester for Nonexempt UI Benefits in FY2013?

Table 1 provides the sequestration percentages that were applied to nonexempt UI benefits in FY2013 (October 1, 2012, through September 30, 2013). Actual UI payment reductions began to be implemented by states the week beginning March 31, 2013. No EB or EUC08 benefits already paid to individuals were recovered to satisfy the sequestration reductions.

OMB's BCA sequester order required a 5.1% reduction for all nonexempt nondefense mandatory expenditures for FY2013.[12] Thus, according to DOL guidance, EUC08 and EB payments were required to be reduced by 10.7% for benefits paid for weeks of unemployment beginning on March 31, 2013, in order to meet the 5.1% reduction target for FY2013. Higher percentage reductions in EB and EUC08 benefits were associated with later dates of state implementation of the UI sequester.

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[9] DOL, Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) 30-13*, September 27, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_30_13.pdf.

[10] Ibid., p. 3.

[11] Ibid.

[12] OMB, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, Washington, DC, March 1, 2013, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

Table 1 provides the schedule of benefit reductions for FY2013 for states that implemented the reductions later than March 31, 2013.

Table 1. Sequester-Based Reductions in Emergency Unemployment Compensation (EUC08) and Extended Benefits (EB) for FY2013

For the week beginning on or after	Percentage reduction
March 31, 2013	10.7%
April 30, 2013	12.8%
May 31, 2013	16.8%
June 30, 2013	22.2%

Source: Employment and Training Administration, U.S. Department of Labor, Unemployment Insurance Program Letter (UIPL) 13-13, March 8, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf.

Note: Reductions in this table assume that states reduced all EUC08 and EB payments uniformly and at the same time. If alternative methods for implementing the sequester were deployed, the reduction was different.

How Did States Implement the Sequester of UI Benefits in FY2013?

As of the effective date of the implementation of the FY2013 sequester, only Alaska was in a payable EB period in FY2013; and that EB period ended on May 4, 2013.[13] Alaska began implementing its FY2013 sequester cuts on May 19, 2013, which was after the last payable EB period in Alaska ended.[14] Therefore, in FY2013, states were responsible for implementing the sequester of EUC08 benefits only. According to the National Association of State Workforce Agencies (NASWA), of the 52 states and territories that responded to a survey in June 2013,[15]

- 19 states implemented FY2013 sequester cuts of 10.7% on March 31, 2013;
- 9 states implemented cuts by April 30, 2013;
- 14 states implemented cuts by May 31, 2013;
- 8 states planned to implement cuts by June 30, 2013; and
- 1 state planned to implement cuts by August 31, 2013.

In addition, NASWA reported that North Carolina did not plan to implement the sequester reduction for FY2013 since the EUC08 program in that state no longer met the federal requirements to offer EUC08 to its workers as of July 2013.[16]

[13] New York had an earlier EB period in FY2013, which ended on December 9, 2012, prior to the implementation of the FY2013 sequester (i.e., the week beginning March 31, 2013). See DOL, Employment and Training Administration, *Extended Benefits Trigger* Notices, http://www.workforcesecurity.doleta.gov/unemploy/archive.asp.

[14] See State of Alaska, Department of Labor and Workforce Development, *Sequester Reduces Federal Emergency Unemployment Benefits*, press release, May 13, 2013, http://labor.alaska.gov/news/2013/news13-25.pdf.

[15] The District of Columbia, Puerto Rico, and the Virgin Islands are considered to be "states" under UI law. Thus, 53 states and territories were required to administer the UI sequester. National Association of State Workforce Agencies, *NASWA Survey Shows Majority of States Have Implemented EUC08 Sequestration Cuts*, June 14, 2013, http://www.naswa.org/assets/utilities/serve.cfm?gid=073c1905-b9cf-4e89-b09e-ed1ce21fb5ac.

[16] For more details on the changes to North Carolina's state law that ended EUC08 availability in that state, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by

Not all states implemented the sequestration reductions uniformly across all EUC08 beneficiaries in FY2013. Several states were unable to implement the preferred method of reduction as outlined by the U.S. DOL. Among these states, there were three alternative methods used in FY2013: (1) paused-week, (2) grandfathering, and (3) reduction of weeks within a tier.

1. *Paused-Week*: States scheduled two-three weeks during which no EUC08 benefits were paid. The remaining weeks of EUC08 were still paid. For example, South Carolina did not pay EUC08 benefits for the weeks ending on May 18, July 13, and August 31, 2013.[17]
2. *Grandfathering*: The sequester cuts applied only to claimants entering a new EUC08 tier. For example, in California the 17.69% cut did not impact anyone collecting EUC08 on an existing tier filed with an effective date before April 28, 2013. Instead, the sequester reduction was implemented when an individual finished a current tier and became eligible to receive benefits on the next EUC08 tier filed with an effective date of April 28, 2013, or after.[18]
3. *Reduction of Weeks in EUC08 Tiers*: The state reduced the number of weeks available in each tier of EUC08, but did not reduce the weekly benefit paid. For example, Maine opted to stop paying the last eight weeks of tier III EUC08 benefits, leaving one remaining week available.[19]

For more specific information on state implementation of the UI sequester, links to state workforce agency websites are available through the U.S. Department of Labor's America's Service Locator at http://www.servicelocator.org/OWSLinks.asp.

Has There Been Any Legislation Proposed to End the UI Sequester?

There has been no relevant legislation introduced in the 114th Congress as of the date of this publication. In the 113th Congress, H.R. 2177, the Unemployment Restoration Act, would have made both EB and EUC08 exempt from sequestration. This exemption would have been retroactive and would have continued through FY2021. Any reduction of UI payments made because of the sequester would have been paid back retroactively.

Do Federal Employees Furloughed by the Sequester Have Access to UI Benefits?

Due to the required reductions in agency spending under the sequester, federal agencies may furlough some or all of their employees for a period of time. The Office of Personnel Management (OPM) states:

> An administrative furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget

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[17] See the South Carolina notice at http://www.dew.sc.gov/claim-euc.asp.

[18] See the California notice at http://www.edd.ca.gov/unemployment/Sequestration_Reduction_Calculator.htm.

[19] See the Maine notice at http://www.maine.gov/tools/whatsnew/index.php?topic=Portal+News&id=520161&v=article-2011.

> situation other than a lapse in appropriations. Furloughs that would potentially result from sequestration would generally be considered administrative furloughs.[20]

In the event of a furlough, federal employees may become eligible for UI benefits through the Unemployment Compensation for Federal Employees (UCFE) program. Under federal law, UCFE provides income support for laid-off or furloughed federal employees in the same way as under the UC program for other types of workers. Eligibility—as well as benefit levels and the waiting period for benefits—under UCFE are determined according to the state laws of the UC program in the state where the federal employee's official duty station was located.[21] As with UC, separated federal employees, including furloughed employees, must have earned a certain amount of wages or have worked for a certain period of time (or both) within the previous 12-18 months to be monetarily eligible to receive any UI benefits (although methods that states use to determine this eligibility vary greatly).

Thus, whether or not a furloughed federal employee may be eligible for UCFE will depend on relevant state UC laws. In particular, two key state law issues factor into this type of UCFE eligibility decision: (1) the state definition of "partial unemployment" and (2) whether or not there is a "waiting week" required under state law.

First, because UI benefits are designed to provide temporary income support to the involuntarily *unemployed*, a furloughed federal employee must meet the relevant state definition of unemployment. The UI system permits benefit receipt in certain circumstance of reduced work hours or short-term reemployment—primarily in order not to discourage work or reemployment. Therefore, each state has its own laws regarding how much work may be performed without making an individual ineligible for UI benefits, that is, partial unemployment. Under state laws, an individual is generally considered to be partially unemployed in any week with less than full-time work and with earnings of less than the weekly benefit amount, or the weekly benefit amount plus an allowance.[22] For instance, in the District of Columbia, an individual is considered partially unemployed if he or she has earnings that are less than the individual's weekly benefit amount plus $20.[23] Furloughed individuals must meet the state definition of partial unemployment in order to be potentially eligible for UC or UCFE benefits.

Second, most states require that eligible individuals first serve a waiting week before receiving any UI benefits. For instance, the District of Columbia and Virginia have a waiting week requirement of one week. Maryland has no waiting week requirement.[24] In states with a waiting week requirement, an individual's furlough days would need to be spread out across more than one week of unemployment. That is, an individual would need to meet the state's definition of unemployment—including partial unemployment—in more than one week (i.e., the waiting week plus an additional week) in order to be eligible for UI benefits.

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[20] Office of Personnel Management, *Pay & Leave: Furlough Guidance*, http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Administrative-Furlough.

[21] See 5 U.S.C. §§8502 and 8504.

[22] The weekly benefit amount (WBA) is determined under state law and is generally based on wages for covered work over a 12-month period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. For additional details on the WBA, including average WBAs across states, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

[23] For information on state definitions of partial unemployment, see Table 3-8 in U.S. DOL, *Comparison of State Unemployment Insurance Laws*, 2014, pp. 18-20, http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2014/monetary.pdf.

[24] For information on state waiting week requirements, see Table 3-7 in U.S. DOL, *Comparison of State Unemployment Insurance Laws*, 2013, pp. 15-17, http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2013/monetary.pdf.

For additional guidance on furloughed federal employees and UCFE, see

- U.S. DOL, "Information for Furloughed Federal Workers," available at http://www.dol.gov/sequestration/ui-federalemployees.htm; and
- OPM, "Guidance for Administrative Furloughs," June 10, 2013, p. 18 (H.1.), available at http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-administrative-furloughs.pdf.

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